

PRIVATE LAND CLAIMS WITHIN CERTAIN NATIONAL
PARKS.

JUNE 13, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. DE VRIES, from the Committee on the Public Lands, submitted the
following

REPORT.

[To accompany H. R. 5859.]

The Committee on the Public Lands, having had under consideration the bill (H. R. 5859) providing for the restoration to the public domain of all private land claims within the Yosemite National Park, California, beg leave to report said bill back to the House with the following amendments:

Amend the title so as to read: "A bill to provide for the preservation of the timber in the Yosemite, General Grant, and Sequoia national parks, in the State of California, and for the restoration to the public domain of all timber land within said parks."

Strike out the preamble.

In line 5, page 2, after the word "Yosemite," insert the words "General Grant, and Sequoia," and in line 6 strike out the word "Park" and insert the word "parks."

In line 8 strike out the word "nonassignable."

And as so amended your committee recommend that the bill do pass.

The object of this bill is to extend to the Yosemite, General Grant, and Sequoia national parks the lieu-scrip provisions of law already enacted with reference to forest reserves. In fact, such a law with reference to these parks is more necessary, if possible, than for forest reserves proper.

The limits of these parks are definitely fixed; those of forest reserves are not, but are expressly subject to revision. The purposes of these parks are for public pleasure resorts, the rules governing which necessarily exclude private uses of the included lands more than the rules governing forest reserves, which are set apart solely for watersheds.

The parks in question were created by acts of Congress in 1890. Without notice or intimation of their prospective passage, divers persons had previously acquired tracts of land subsequently included within the same. These were acquired largely for timber purposes, the successful use for which purposes requires, in these cases, the acquisition and use of adjacent lands now impossible, and thereby Congress

2 PRIVATE LAND CLAIMS WITHIN CERTAIN NATIONAL PARKS.

made useless to the owner property for which he had paid the Government.

Moreover, the necessary rules for the government of these parks render the free use of these lands impracticable for any possible purpose. The patented tracts embrace the finest timber and lands within the parks, and to permit them to be cleared of timber now would be an irretrievable injury and defeat the very object of these acts. In exchanging for these lands other of the public domain the Government admittedly secures the better of the bargain, as it secures tracts of timber land superior to any in the United States.

For the reasons, therefore, that it is not the policy of our Government to take private property without due compensation therefor; that it is necessary to and will carry out the objects and purposes of the acts creating these parks, and without which they may be irreparably injured, and, further, that at the same time the Government will be securing a valuable property for one of less value and without any expense to itself, your committee are of the opinion that this bill should become a law and so recommend.

There are included within the Yosemite National Park, of lands patented and claimed, subject to the provisions of this bill, 54,259 acres; within the Sequoia National Park, 665 acres, and within the General Grant National Park, 160 acres, making an aggregate of 55,084 acres.

The report of the honorable Secretary of the Interior hereupon, the letter of the honorable Commissioner of the General Land Office recommending the passage of this bill, and other pertinent data are hereto annexed.

DEPARTMENT OF THE INTERIOR,
Washington, April 9, 1898.

SIR: In response to the request contained in your letter of the 1st instant, I have to state that of the lands within the General Grant National Park there have been patented 160 acres, and of the lands within the Sequoia National Park there have been patented 665.84 acres under cash entries, and one mineral entry, No. 16.

There is also transmitted herewith for your information a copy of Department letter of recent date to the Senate Committee on Appropriations, calling attention to the necessity for making an appropriation for the protection of the several national parks in the State of California.

Very respectfully,

C. N. BLISS,
Secretary.

Hon. MARION DE VRIES,
House of Representatives.

DEPARTMENT OF THE INTERIOR,
Washington, March 22, 1898.

SIR: Your letter has been received inclosing, with request for report thereon, House bill 5859 (Fifty-fifth Congress, second session) entitled "A bill to provide for the preservation of timber in the Yosemite National Park, in the State of California, and for the restoration to the public domain of all timber land within said park."

The bill in terms is as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in cases in which a tract of land covered by an unperfected bona fide claim or by a patent is included within the limits of a public forest reservation or of the Yosemite National Park, in California, the settler or owner thereof may, if he desires so to do, relinquish the tract to the Government and receive in lieu therefor scrip, nonassignable, which shall entitle the owner thereof to select, upon surrender thereof to the Government, a tract of vacant land open to settlement not exceeding in area the tract covered by his claim or patent; and no charge shall

be made in such cases for making the entry of record or issuing the patent to cover the tract selected; *Provided*, That in cases of unperfected claims the requirements of the laws respecting settlement, residence, improvements, and so forth, are complied with on the new claims, credit being allowed for the time spent, improvements made, and so forth, on the relinquished claims. And the scrip so issued shall certify the character of the title relinquished and credits to which the owner is entitled as having been performed upon the relinquished claim.

"SEC. 2. That the Secretary of the Interior is hereby authorized to do the necessary acts and make the necessary regulations for the enforcement of this act."

The records of the Land Office show that there are within the limits of the Yosemite National Park but two unperfected homestead entries, embracing an area of 320.16 acres, and one unperfected mineral entry covering 7,815 acres, making in all only three claims on which patents have not yet issued, embracing a total area of 327,975 acres; all other claims in the park of record under the several land laws are patented, the total number being 351, covering an area of 53,931.15 acres.

The Commissioner of the General Land Office, to whom this bill was referred, calls attention in his report (copy of which is herewith transmitted) to the fact that under the terms of this bill its provisions are extended to all forest reservations in California, as well as the Yosemite National Park. He further states that—

"A somewhat similar provision is now a law, so far as regards all forest reservations (act of June 4, 1897, 30 Stat., 34-36), which allows the selection of lands in lieu of tracts held within the limits of a forest reservation, and it should therefore be eliminated from the bill so far as such reserves are concerned.

"As it is the purpose of this bill to recover to the United States not only the timber lands, but all lands, in the park to which it has parted title, I am of the opinion that the title of the bill should be changed to read as follows: 'A bill to provide for the preservation of the timber in the Yosemite National Park, in the State of California, and for the restoration to the public domain of the lands which have been entered, selected, located, or patented within said park.'

"As to the inquiry whether there would be sufficient public lands open to settlement on which such scrip could be located, I have to state that there can be no question on that point, as it is shown above that there are but 53,931.15 acres of land disposed of in the Yosemite Park.

"Upon the merits of the bill generally I have the honor to report that with the amendment above suggested I think this is the best solution of the problem of control and protection of the park. It costs the Government nothing, and goes a long way, if not entirely, in satisfying the demands of the owners of lands within said park."

I concur in the conclusions of the Commissioner of the General Land Office in this matter as above set forth, and, if the bill is amended in conformity with his suggestions, I have the honor to state that I see no reason why it should not become a law.

Very respectfully,

C. N. BLISS, *Secretary*.

Hon. JOHN F. LACEY,
Chairman Committee on the Public Lands, House of Representatives.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 7, 1898.

SIR: I have the honor to acknowledge the receipt, by your reference, under date of January 12, 1898, of House bill No. 5859 (Fifty-fifth Congress, second session), "To provide for the preservation of the timber in the Yosemite National Park, in the State of California, and for the restoration to the public domain of all timber land within said park." The same is referred for report as to the number of unperfected bona fide claims to land within the limits of the said park and the amount of land covered thereby, the number of patents issued for lands within the park and the acreage embraced therein. Also, for an expression of views as to whether it would be advisable to permit the issue of nonassignable scrip in lieu of such lands; and, if so, whether there would be sufficient public lands open to settlement of a suitable character in the United States on which such scrip could be located; and, generally, upon the merits of the bill.

The records and tract books of this office show within the limits of said park but two unperfected homestead entries, embracing an area of 320.16 acres, and one unperfected mineral entry, covering 7,815 acres, making a total of only three claims on which patents have not yet issued, embracing a total of 327,975 acres.

All other claims in the park, of record, under the several land laws, are patented, the total number being 351, covering an area of 53,931.15 acres.

With regard to the requested expression of views as to the advisability of per-

4 PRIVATE LAND CLAIMS WITHIN CERTAIN NATIONAL PARKS.

mitting the issue of nonassignable scrip in lieu of such lands, I respectfully invite attention to section 1 of this bill, which provides as follows:

"That in cases in which a tract of land covered by an unperfected bona fide claim or by a patent is included within the limits of a public forest reservation, or of the Yosemite National Park, in California, the settler or owner thereof may, if he desires so to do, relinquish the tract to the Government and receive in lieu therefor scrip, nonassignable, which shall entitle the owner thereof to select, upon surrender thereof to the Government, a tract of vacant land open to settlement not exceeding in area the tract covered by his claim or patent; and no charge shall be made in such cases for making the entry of record or issuing the patent to cover the tract selected: *Provided*, That in cases of unperfected claims the requirements of the laws respecting settlement, residence, improvements, and so forth, are complied with on the new claims, credit being allowed for the time spent, improvements made, and so forth, on the relinquished claims. And the scrip so issued shall certify the character of the title relinquished and credits to which the owner is entitled as having been performed upon the relinquished claim."

It will be observed that these provisions extend to all forest reservations in California as well as the Yosemite National Park. A somewhat similar provision is now a law so far as regards all forest reservations (act of June 4, 1897; 30 Stat., 34-36), which allows the selection of lands in lieu of tracts held within the limits of a forest reservation, and it should, therefore, be eliminated from the bill so far as such reserves are concerned.

As it is the purpose of this bill to recover to the United States not only the timber lands, but all lands in the park to which it has parted title, I am of the opinion that the title of the bill should be changed to read as follows: "To provide for the preservation of the timber in the Yosemite National Park, in the State of California, and for the restoration to the public domain of the lands which have been entered, selected, located, or patented within said park."

As to the inquiry whether there would be sufficient public lands open to settlement on which such scrip could be located, I have to state that there can be no question on that point, as it is shown above that there are but 53,931.15 acres of land disposed of in the Yosemite Park.

Upon the merits of the bill, generally, I have the honor to report that, with the amendment above suggested, I think this is the best solution of the problem of control and protection of the park. It costs the Government nothing and goes a long way, if not entirely, in satisfying the demands of the owners of lands within said park.

The bill is returned herewith.

Very respectfully,

BINGER HERMANN,
Commissioner.

THE SECRETARY OF THE INTERIOR.

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